

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: _____
PHILIP A. LIPSON, D.O.	:	VIOLATIONS: 21 U.S.C. §§ 331(t), 333(b)(1)(B), and 353(c) (illegal sale of prescription drug samples - 1 count) Notice of additional factors

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At times material to this information:

DRUG SAMPLES

1. The term "drug sample" means a unit of a prescription drug which is not intended to be sold and is intended to promote the sale of the drug. 21 U.S.C. §353(c).
2. Under the Prescription Drug Marketing Act ("PDMA"), 21 U.S.C. §353(d), a manufacturer or distributor of a prescription drug may distribute prescription drug samples to a licensed practitioner, or to the pharmacy of a hospital, or another health care entity at the request of a licensed practitioner. Prescription drug samples are not to be delivered to retail pharmacies for sale to consumers. Under the PDMA, no person may sell, purchase, or trade or offer to sell purchase or trade a drug sample. 21 U.S.C. § 353(c)(1).
3. The PDMA was enacted for several reasons, one being that "[t]he existing system of providing drug samples to physicians through manufacturer's representatives has been abused

for decades and has resulted in the sale to consumers of misbranded, expired, and adulterated pharmaceuticals." 21 U.S.C. §353 (note).

4. Defendant PHILIP LIPSON is a medical doctor licensed to practice medicine by the Commonwealth of Pennsylvania.

5. Defendant PHILIP LIPSON, as a practicing physician, received drug samples from various drug manufacturers' representatives on a regular basis.

6. From January 1996 through August 2000 defendant PHILIP LIPSON sold, or caused to be sold, thousands of non-controlled prescription drug samples to a pharmacist known to the United States Attorney. The drug samples were then placed into the pharmacy's inventory by the pharmacist and sold to patients.

7. Defendant PHILIP LIPSON was paid approximately \$40,000 by the pharmacist for the prescription drug samples.

8. On or about August 8, 2000, in the Eastern District of Pennsylvania, defendant

PHILIP LIPSON

knowingly and unlawfully traded, sold, and offered to trade and sell, prescription drug samples to a pharmacist known to the United States Attorney.

In violation of Title 21, United States Code, Sections 331(t), 333(b)(1)(B), and 353(c)(1).

NOTICE OF ADDITIONAL FACTORS

1. In committing the offense charged in Count One of this information, defendant PHILIP LIPSON:

- a. Committed an offense in which the defendant abused a position of trust public and private trust, as described in U.S.S.G. §3B1.3.
- b. Committed an offense in which the defendant used a special skill, in a manner that significantly facilitated the commission and concealment of the offense, as described in U.S.S.G. § 3B1.3.
- c. Committed an offense in which the offense involved fraud and the loss exceeded \$20,000, as described in U.S.S.G. § 2F1.1(b)(1).
- d. Committed an offense that involved more than minimal planning or a scheme to defraud more than one victim, as described in U.S.S.G. § 2F1.1.

PATRICK L. MEEHAN
UNITED STATES ATTORNEY